
VI. Legislative Needs

As discussed in the previous chapter, implementation of some *Galveston Bay Plan* initiatives will require legislation at the federal and state level. This chapter describes the major legislative initiatives identified in the *Plan*. The Galveston Bay Program (GBP) will work closely with federal and state agencies to assure passage of these legislative initiatives, which are described below by implementation year. Corresponding action numbers of the *Plan* are also shown.

1995 Congressional Session

- **Seek appropriation for *Galveston Bay Plan* implementation.**

Support amendments to the reauthorization of the federal Clean Water Act providing federal funds for National Estuary Program implementation efforts. A line item appropriation for Galveston Bay may also need to be pursued.

1996 Congressional Session

- **Seek appropriations for individual *Plan* actions through agency appropriations.**

Numerous federal appropriations for individual actions have been identified as legislative needs in the *Plan*. Since these programs are varied, and often agency-specific, they are probably best addressed through the Congressional budget bill rather than the Clean Water Act. Since most agencies are now in the process of preparing budget submissions for the 1996 fiscal year, the 1996 budget bill would be the appropriate starting point for this process. The GBP should continue to work with federal agencies participating in *Plan* implementation in successive Congressional Sessions to ensure that funding *Plan* initiatives remains a high priority.

1997 Congressional Session

- **U.S. Fish and Wildlife Service (USFWS) will identify appropriate national legislation regulating the introduction of exotic species. (SP-9)**

Under SP-9, the USFWS will work to develop legislation authorizing the regulation of the introduction of exotic species. The USFWS will also endeavor to secure passage of legislation authorizing regulations to prohibit the discharge of bilge water within the Galveston Bay System.

1995 Texas Legislature

- **Seek appropriation for Galveston Bay Plan implementation.**

The TNRCC will lead efforts to secure state funding for the establishment and operation of the GBP through legislative appropriation.

- **Seek funding for individual *Plan* actions through agency appropriations.**

Many individual actions will also require state funding. Since these programs are varied, and often agency-specific, their funding should be pursued through the Legislative Budget Board in individual agency appropriations. The GBP should continue to work with state agencies participating in *Plan* implementation in successive Legislative Sessions to ensure that funding *Plan* initiatives remains a high priority.

1997 Texas Legislature

- **Set aside a portion of oyster reef habitat as a scientific reserve. (SP-4)**

If the federal National Estuarine Research Reserve designation is not pursued (or granted), state legislation may be required to establish a similar designation at the state level. TPWD will take the lead in identifying candidate sites and defining the parameters of the reserve designation.

- **Establish county ordinance-making authority in Brazoria, Chambers, Galveston, Harris and Liberty Counties. (SD-5, SM-1, SM-2, SM-3, NPS-1, NPS-4, NPS-6, NPS-12, NPS-13)**

Several recommendations in the *Spills/Dumping*, *Shoreline Management*, and *Non-Point Sources* Action Plans identify the need for county-ordinance making authority to regulate shoreline trash management, shoreline development, residential nonpoint source (NPS) load reduction measures, NPS controls on new development and construction, and solid waste collection. Enabling legislation covering each of these actions should probably be consolidated into a single bill.

The legislature has granted zoning authority to several Texas counties, as evidenced by Section 231 of the Local Government Code. Commissioners courts are not now legislative bodies under Texas law. Therefore, state law must specify the purposes and necessary powers for the court to exercise zoning powers, or there must be a change in state law by a general grant of ordinance-making power for zoning purposes to counties, as evidenced by Section 51.001, Local Government Code, which is applicable to general law cities in the state.

The legislature could provide that requirements for establishing county zoning are largely the same as they are for cities: the zoning must be in accordance with a comprehensive plan; the county must appoint a zoning commission; and, informal hearings and an appeals process must be provided for. The legislature might also provide for a local election option which allows citizens to petition for an election to determine if a county can implement a zoning ordinance authorized by the legislature.

Nonpoint source controls could also be authorized for county implementation, so long as they do not conflict with the comprehensive control of such pollutants now being administered by the TNRCC and other agencies.

Such legislation could be applied to counties statewide, however, limiting the bill to the five counties surrounding Galveston Bay would probably make passage more realistic. County regulatory provisions provided in the legislation could include:

- authorization to control solid waste collection at marinas and other shoreline facilities.
- authorization of county shoreline land use plans.
- residential, commercial, and industrial shoreline development guidelines, standards, or regulations.
- shoreline construction guidelines, standards, or regulations.
- maximum lot coverage.
- size of yards, courts and other open spaces.
- location and use of building.
- placement of water and sewage facilities, parks and other public requirements.
- residential NPS load reduction ordinances.
- Best Management Practices for reducing NPS from new development and construction activities.

1999 Texas Legislature

- **Establish local governments' ability to provide a tax incentive for wetlands preservation.** (HP-6)

Article VIII of the Texas Constitution requires that all real property shall be taxed in proportion to its value, which shall be ascertained as provided by law. The existence of officially designated, or dedicated habitat, or wetlands, is taken into consideration in the assessment process when such encumbrances diminish the market value of a property. However, there are currently no provisions in the Texas Tax Code for providing an abatement or exemption from property taxes for such conditions, nor can a property owner be guaranteed of a reduced value for his or her property, if such a condition exists thereon.

The legislature could provide tax relief if it amends Section 312 of the Tax Code (which authorizes municipalities to grant tax abatements for economic development projects) or amends Article 11 of the Tax Code to include habitat as a tax-exempt class property, if the legislature determines that a constitutional basis for such abatement or exemption exists. The legislature can also propose a constitutional amendment (as was done in 1993 for pollution control equipment, which is now contained in Article VIII (1) of the Texas Constitution) which would authorize the legislature to enact an abatement or exemption provision for land encumbered by habitat or wetlands.

A landowner may also contribute his or her land to a charitable non-profit corporation exempt from federal income tax pursuant to § 501 c (3), (4), (5), or (7) of the Internal Revenue Code and take a tax deduction for the value thereof against his or her income tax liability. The land, while under the ownership of the non-profit corporation, would be exempt from state property taxes pursuant to Article 11 of the Tax Code.

- **Establish General Land Office (GLO) authority to regulate houseboats which have a negative effect on publicly owned lands. (SM-4)**

Chapter 33, Subchapter A-E of the Texas Natural Resource Code subjects private structures located on state land or water to the School Land Board (GLO) permitting process. This authority does not extend to derelict houseboats which may produce the same impacts on publicly owned lands as other derelict structures. The GLO also does not have the authority to regulate houseboats for raw sewage discharges. The derelict structure removal action and raw sewage discharge enforcement provisions recommended in *SM-4* will require legislation to extend the GLO authority to houseboats.

2001 Texas Legislature

- **Extend review boundary for water permits. (FW-3, FW-4)**

Under Section 11.147 of the Texas Water Code, the TNRCC is required to assess the effects of the issuance of permits to store, take, or divert water on bays and estuaries. This authority extends to permits not more than 200 river miles from the coast. The comprehensive plan recommended in *FW-3* and the recommendations in *FW-4* may require legislation to extend the TNRCC review authority beyond 200 miles to encompass the entire Galveston Bay watershed. It would also be beneficial for the legislation to amend Section 11.024 of the Water Code to increase the priority ranking given to beneficial freshwater inflow to estuaries.

- **Extend TNRCC regulatory authority over recreational boat sewage disposal to include tidally influenced areas, if necessary. (NPS-14, NPS-15)**

In the event that GLO regulation of marinas and EPA/Coast Guard regulation of marine sanitary chemicals do not adequately address problems identified in *NPS-14* and *NPS-15*, legislation may be required to extend TNRCC's regulatory authority over recreational boat sewage to include tidally influenced areas.